



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

AUG - 1 2007

John P. Duggan  
Duggan Law Offices  
181 S. Lincolnway  
North Aurora, IL 60542-0273

RE: MUR 5568  
Jack Roeser

Dear Mr. Duggan:

On October 21, 2004, the Federal Election Commission notified your client, Jack Roeser, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

Upon further review of the allegations contained in the complaint, information supplied by you, and an investigation, the Commission, on July 12, 2007, voted to dismiss as a matter of prosecutorial discretion the allegation that Jack Roeser violated 2 U.S.C. § 441a(a) by making an excessive contribution to EIMF and that there is no reason to believe that Jack Roeser violated 2 U.S.C. § 441(a) by making an excessive contribution to EI. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information. In addition, the Commission previously found no reason to believe that Mr. Roeser violated 2 U.S.C. § 441a by making excessive in-kind contributions in the form of coordinated expenditures to Alan Keyes or Keyes 2004, Inc.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

If you have any questions, please contact Jin Lee, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Kara McConnell". The signature is fluid and cursive, with a large loop at the beginning.

Julie Kara McConnell  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis  
First General Counsel's Report

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENTS: Jack Roeser

MUR. 5568

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8 **I. INTRODUCTION**

9 This matter concerns allegations that Jack Roeser violated various provisions of  
10 the Federal Election Campaign Act of 1971, as amended ("the Act"). The complaint  
11 alleges, *inter alia*, that Jack Roeser violated the Act by making excessive contributions to  
12 Empower Illinois ("EI") and Empower Illinois Media Fund ("EIMF"), entities organized  
13 under Section 527 of the Internal Revenue Code.

14 Based on the available information, the Commission finds that: 1) the allegation  
15 that Jack Roeser made an excessive contribution to EIMF should be dismissed as a matter  
16 of prosecutorial discretion; and 2) there is no reason to believe that Jack Roeser violated  
17 the Act by making an excessive contribution to EI.

18 **II. FACTUAL & LEGAL ANALYSIS**

19 Jack Roeser is the chairman and founder of Otto Engineering, Inc., and President  
20 of the Family Taxpayers Network, an Illinois state political committee. Roeser gave  
21 \$10,000 to EI and \$30,000 to EIMF on August 23, 2004. Because EIMF is a political  
22 committee under 2 U.S.C. § 431(4)(a), Roeser's contribution exceeded the \$5,000  
23 contribution limit in 2 U.S.C. § 441a(a)(1). However, the Commission exercises its  
24 prosecutorial discretion and dismisses the allegation that Roeser made an excessive  
25 contribution to EIMF. *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

26 With respect to the funds that Roeser gave to EI, the Commission's investigation  
27 did not find sufficient evidence to establish that EI obtained contributions through

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1 solicitations clearly indicating that the funds received would be targeted to the election or  
2 defeat of a clearly identified federal candidate. *See FEC v. Survival Education Fund,*  
3 *Inc.*, 65 F.3d 285 (2d Cir 1995). In addition, EI did not spend funds on paid political  
4 advertisements and limited its expenses to website development and maintenance and  
5 administrative activities. Because there is insufficient evidence to establish that EI  
6 triggered political committee status by receiving contributions under 2 U.S.C.  
7 § 431(8)(A) or making expenditures under 2 U.S.C. § 431(9)(A), the Commission finds  
8 no reason to believe that Jack Roeser violated 2 U.S.C. § 441a(a) by making an excessive  
9 contribution to EI.

10 **III. CONCLUSION**

11 The Commission dismisses as a matter of prosecutorial discretion the allegation  
12 that Jack Roeser violated 2 U.S.C. § 441a(a) by making an excessive contribution to  
13 Empower Illinois Media Fund and finds no reason to believe that Jack Roeser violated 2  
14 U.S.C. § 441a(a) by making an excessive contribution to Empower Illinois.

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